

Telephone Interview

The Examiner's courtesy in discussing the application, pending claims, and the Declaration submitted by applicants with applicants' representative Bruce M. Monroe is acknowledged with thanks.

Claim Rejections - 35 USC § 103*Claim 26 and the Claims Dependent Thereon*

Claims 26-31 and 40-43 were rejected under 35 USC § 103(a) as unpatentable over Meeks, U.S. Patent 5,830,092 ("Meeks"), in view of Zocher, U.S. Patent 3,340,586 ("Zocher").

As amended, claim 26, the only independent claim remaining in the application, recites that the plurality of fibers, including the non-perpendicular fibers, extends transversely through the thickness of the batt (*i.e.* from one surface to the opposite surface).

This feature is not disclosed by Zocher. Although Zocher includes some non-perpendicular fibers, these fibers do not pass through the batt, but instead enter on one side of the batt and subsequently re-emerge on the same side of the batt without passing through the thickness of the batt. *See*, Zocher, Figures 2, 3, 5, 7, 8, and 9. The "superior and cohesion of the resulting felted product" taught by Zocher (column 2, lines 28-29) and relied on by the Office (paper 17, page 4, lines 10-11) refers to this three dimensional fiber arrangement. (column 2, lines 31-34).

Further, the two surfaces of the fabric of Zocher are very different. On one side, many fibers extend through the surface at a range of non-perpendicular angles. On the opposite side, the fibers extending through the surface are all perpendicular to the surface. Consequently, the surfaces have different strengths. If the fabric of Zocher were adhered to a tennis ball, either the lower surface would lack strength or the upper surface would lack the desired playing characteristics, depending on which of the two surfaces of Zocher's fabric was made the upper surface.

The Examiner has not made the *prima facie* case. Combination of Meeks and Zocher in the manner indicated by the Office does not produce applicants' invention. The rejection of claim 26, and the claims dependent thereon, as unpatentable over Meeks in view of Zocher has been overcome.

Claim 30 and 31

Claim 30 recites that "the needlefelt has a fiber density that varies across its thickness." Claim 31 recites that "the fiber density of the needlefelt decreases from the base of the covering toward the external surface." Similar limitations appear in amended claims 38 and 39.

The Examiner has not made the *prima facie* case. Neither Meeks nor Zocher discloses these features. Combination of Meeks and Zocher in the manner indicated by the Office does not produce the invention claimed in claims 30, 32, 38, and 39. For this additional reason, the rejection of claims 30 and 31 as unpatentable over Meeks in view of Zocher should be withdrawn, and amended claims 38 and 39 should be allowed.

Declaration under 37 CFR 1.132

Although the Office has not made the *prima facie* case, applicants have submitted evidence of unexpected results. Applicants have submitted a Declaration by Alan John Brasier, the named inventor of the above-captioned application and an employee of Milliken Industrials Limited, the assignee of the above-captioned application.

Play characteristics of the ball of the invention were evaluated by four professional tennis players. The players rated the balls on the following playing characteristics: felt cover wear, fluff cover fluff level, feel off racquet, weight off racquet, speed of flight, control of spin, rebound spin, rebound speed, rebound angle, and overall performance. Brasier Declaration, page 2, ¶6.

The Office dismissed this Declaration as "merely the opinions of four tennis players" and "the opinion of four people who played with the balls." Paper 17, page 4, line 11-16.

It is respectfully pointed out that the "tennis players" or "people" in question were "professional tennis players (tennis coaches)," not casual tennis players. Brasier Declaration, page 1, ¶ 3. Further, the professional tennis players did more than merely "play with the balls." The balls were evaluated under actual playing conditions, in a blind comparison with other three other types of tennis balls. *Id.*

The results are based on a comparative evaluation by professional tennis players, that is, by individuals who are experts in the play characteristics of tennis balls. Thus, the results are more than 'mere opinion.' They are based

on a comparative evaluation by experts in the field carried out under actual use conditions.

The Office requests tests and measurements by "any scientific means." The Office has not suggested any "scientific means" that correlate with such play characteristics as "feel off racquet," "weight off racquet," and "control of spin." Applicants submit that the Declaration demonstrates the unexpected superior playing characteristics of the claimed tennis balls. Even if the Office has made the *prima facie* case, it has been overcome by the showing of unexpected results.

Extension of Time

A check in the amount of \$410 for a two-month Extension of Time accompanies this response.

Conclusion

It is respectfully submitted that the claims are in condition for immediate allowance and a notice to this effect is earnestly solicited. The Examiner is invited to phone applicant's attorney if it is believed that a telephonic or personal interview would expedite prosecution of the application.

Respectfully submitted,



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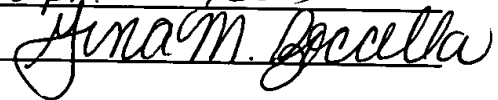
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April 21, 2003



VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claims 32-37, drawn to an unelected invention, have been cancelled without prejudice to applicants' right to pursue the subject matter of these claims in a divisional application.

The claims have been amended as follows:

26. (once amended) A tennis ball comprising a resilient hollow core and a ball-covering felt adhered to the hollow core, wherein the ball-covering felt is a needlefelt comprising a fiber batt and a plurality of fibers that extend transversely through the thickness of the batt in a range of angles, including angles that are non-perpendicular with respect to the surface of the batt.

38. (once amended) A[method] tennis ball as claimed in claim[32] 28, wherein the needlefelt has a fiber density that varies across its thickness.

39. (once amended) A[method] tennis ball as claimed in claim 38, wherein the fiber density of the needlefelt decreases from the base of the covering toward the external surface.